IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

WEDNESDAY, THE 17TH OCTOBER 2007 / 25TH ASWINA 1929

Crl.Rev.Pet.No. 3705 of 2007()

AGAINST THE ORDER DATED 20/09/2007 IN CRMP. 2111 /2007 IN CRA.511/2007 of ADDL.SESSIONS COURT-I, MAVELIKKARA

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REVN. PETITIONER:

JOSE THOMAS, S/O. JOSEPH,
AGED 48, PROPRIETOR,
THOPPURAM BANKERS, T.B.ROAD,
KOTTAYAM TALUK,
KOTTAYAM DISTRICT

BY ADV. SRI.N.SURESH

RESPONDENTS:

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1. STATE OF KERALA REPRESENTED BY
THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM

2. V.R.BIJUKUMAR, S/O.T.N.RAGHAVAN
PUTHACHERIL VEEDU,
PUTHENCAVU PO, CHENGANNUR TALUK
PROPRIETOR-CUM-MANAGER, TERMINA MARKETING.

BY PUBLIC PROSECUTOR SRI.K.S.SIVAKUMAR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 17/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

Crl. R.P. No. 3705 OF 2007

Dated this the 17th day of October, 2007

O R D E R

Revision petitioner who is the accused in a prosecution under section 138 of the Negotiable Instruments Act, 1881 involving a cheque for a sum of Rs.72,000/- was convicted by the JFCM-I, Chengannur in C.C.No.697/2005. Challenging the conviction, he has preferred Crl.Appeal No.511/2007 before the Additional Sessions Court-I, Mavelikkara. As per order dated 20.9.2007 in Crl.M.P. No.2111/07 the lower appellate court suspended the sentence on condition that the petitioner deposits the entire cheque amount of Rs.72,000/- within three months. It is the said condition which is assailed in this revision.

2. In a first appeal which is available to the accused as of right, the lower appellate court should not have imposed such an onerous condition. It would have been proper if the petitioner was directed to pay at least half of the cheque amount as a conpdition for suspending the sentence.

Accordingly, the impugned order is modified directing the revision petitioner to deposit before the trial court a sum of Rs.35,000/- (Rupees thirty five thousand only) within one month from today, failing which the order suspending the sentence will stand recalled. I am not interfering with the condition in the impugned order regarding the execution of bond, etc. The aforesaid modified condition will be in force till the disposal of Crl.Appeal No.511/07.

This revision is disposed of as above.

(V. RAMKUMAR, JUDGE)

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